

# WISCONSIN UTILITIES ASSOCIATION INC.

## Remarks on DNR Mercury Rule

On behalf of Wisconsin's investor-owned utilities, The Wisconsin Utilities Association (WUA) supports the DNR taking the lead in reducing state mercury emissions. We think it's a good idea to reduce the level of mercury in the environment and we are willing, as an industry, to support reasonable state rules for reducing mercury from coal-fired electric generating plants.

Back in December of last year, when the Natural Resources Board was deciding how to respond to a citizen petition -for developing state mercury rules, WUA took a proactive position,' and voiced its support for the DNR moving ahead with rule-making. This was a significant step forward. We -agreed to work to ether to begin to address mercury concerns. Up until then, there was a lot of disagreement over whether the state should even consider requiring mercury reductions from utilities.

But this period of agreement lasted a short time. When the Department released proposed mercury rules in late May, a few weeks before they took them to the Board to request approval to go to public hearing, we got a first glimpse of the rule package. It wasn't hard to come to the conclusion that the rules are over-reaching, and go far beyond what we consider to be a reasonable first step. We support rules that bridge the gap before federal mercury rules are proposed. We support Wisconsin being a leader in taking actions that will result in environmental improvement. We don't support the proposed rule package.

Note that emissions from Wisconsin utilities only account for less than 1 % of the mercury in the global pool. I'll refer to this later when we talk about the limited impact that reducing emissions from Wisconsin's coal plants could have on the state's fish advisories. But first let me emphasize that the goal of Wisconsin utilities is to provide our customers with the cleanest power available while ensuring that our electric rates stay among the lowest in the nation. We have an important balance to achieve. We must determine what kind of environmental spending can be supported ratepayers. When we need to make these tough decisions, one of the most important questions that we have to answer is "how much environmental improvement are we going to get for what kind of cost"?

Ironically, one of the most environmentally beneficial changes that the utilities have made in the past is one that makes reducing mercury emissions even more difficult and costly. In order to meet the state's often-praised Acid Rain law, most Wisconsin utilities switched to low-sulfur coals. These are typically mined in the Powder River Basin in the western U.S. By changing coals, we've managed to reduce sulfur dioxide emissions by over 50% since 1980.

This environmental success, however, is now complicating the search for new technologies to control mercury emissions. Mercury emissions from these western low-sulfur coals are much harder to capture using existing air pollution controls than are coals burned in other parts of the U.S. New technologies are being developed in order to control mercury from these coals, but they

are currently in the R&D stage of development. This is a critical, part of our opposition to the proposed rules, since approximately 85% of the coal burned by Wisconsin utilities is this low sulfur, low SO<sub>2</sub> type of coal.

Coal is also one of the chief reasons we've been able to keep your electricity costs low. Today, more than half of Wisconsin's electric generation comes from coal. It is one of the cheapest sources of fuel available and, as a key part of a diverse fuel mix, it protects consumers from price volatility, such as the natural gas price spikes we had last winter.

Another question that should be asked is how much environmental improvement can we expect in state resources under alternative proposals. We emphasize that the state of the science regarding mercury emissions is very complicated. There are still more questions than answers about how mercury emissions are transported by air currents around the globe, how they get deposited on lakes and other waters, and how they- eventually end up in fish and make their way to our campfires and dinner tables. At this time scientists tell us that no amount of mercury emission reductions in Wisconsin, will solve the problem of mercury in the Wisconsin. In fact, we could shut down every coal-fired boiler in the state and we still wouldn't be able to take a single Wisconsin lake off the fish consumption advisory list.

Still, we think it's a good idea to cut emissions to the extent that available technology, cost and reliability allows us to do so. We support reducing mercury emissions and that's why the WUA members and Dairyland Power Cooperative (DPC) stated a commitment to work with the Department in developing state rules, and last December proposed cutting mercury emissions by 10 and 40% over the next 10 years.

A major concern that we have with the rule is the 90% emission reduction requirement. This requirement is not technologically feasible today. While Wisconsin Electric is involved in cutting edge research for new -control technology suitable for the low-sulfur coal used in Wisconsin, there are no results yet. Today, the only way to meet this requirement is to shut down coal plants - and we can't do that and keep the lights on at the same time.

Some have argued that we could make a switch to natural gas to replace coal-fired generation. But, we don't think -this is the right energy decision for Wisconsin. Natural gas is an important part of our fuel mix, and accounts for about 12% of generation. It is important to note that Wisconsin does not currently have the pipeline capacity to support -large-scale switching from coal to gas.

You may be aware of the controversy surrounding the Arrowhead Weston transmission line that has been proposed. Imagine a dozen such controversies throughout the state as landowners oppose digging up their back yards to site a network of gas pipelines to feed the power plants to keep the lights on. Replacing coal with gas would also require along with spending hundreds of millions of dollars to build the pipeline infrastructure the increased cost of natural gas, due to dramatically increased demand. This, coupled with the rise volatility of the natural, gas market, puts Wisconsin's energy customers at the risk of those high prices.

Finally, we are concerned that the State of Wisconsin has set its sights too high in order to be a leader and influence federal mercury rules. The federal government, through the EPA, will be coming out with rules in 2003 requiring utilities nationwide to cut mercury emissions. Wisconsin utilities will be subject to these regulations. Wisconsin can still be a leader by treating rules that bridge the gap to the pending federal regulations.

The Department has highlighted the fact that they must report to the DNR Board every 18 months to both examine the feasibility of achieving reductions and assess how well the rule aligns with science and technology developments and other regulatory activity. They justify the extensive rule package based on these mid-course reviews, and apparently, potential rule changes. We, instead, strongly recommend that the Department set out a reasonable rule package to begin with. Utilities have very long lead times for developing compliance plans and getting financial and regulatory approval for spending money on emission controls. Any installation of these controls also needs to be scheduled to coincide with planned maintenance outages. The Department's kitchen-sink approach isn't practical, and we instead recommend a streamlined rule-making process.

We believe that we need to consider ratepayer and economic risks of the proposed rules. We can't support rules that could put our economy at risk. If Wisconsin companies are paying more for energy to fund early and expensive control technologies, their competitors in other states will be able to undercut them. This puts Wisconsin jobs and the families that depend on those jobs for a paycheck at a severe disadvantage.

Electricity costs matter, and we emphasize that the cost estimates in the rule proposal need further scrutiny. We are aware of some computational errors that the Department has discovered in their estimate of rule costs to electric customers. We will be reviewing cost estimates further, through the Technical Advisory Group (TAG) that DNR has convened. A number of other technical issues - which are not insignificant - need to be resolved through the TAG as well.

It is also critical to note that the Public Service Commission of Wisconsin, in comments to the public open meeting last week in Madison, expressed grave concerns about what the impact of the rule will be on the state's power supply, since the reductions are not technologically feasible today. The Commission, which ensures that utilities generate an adequate, reasonably priced and reliable power supply, also noted that the DNR staff went well beyond the scope of the charge given to them by the DNR Board last year when they requested a rule be drafted which included technological feasibility and economic hardship, as well as other issues.

I want to reiterate that Wisconsin's investor owned utilities and Dairyland Power Cooperative are committed to the goal of reducing mercury emissions in the environment. After all, utility people drink the same water, swim in the same lakes and catch and eat the same fish that everyone else does. And, we have put our money where our mouth is and volunteered to reduce emissions by 10 and 40% over 10 years.

However:

- The 90% reductions called for by the rule are impossible to comply with without shutting down coal plants, which will threaten reliability and dramatically increase utility bills;
- Wisconsin should make some deliberate and informed decisions about the scope of rules that are necessary to put them in a leadership position, rules that force a state energy mix to natural gas can't be justified; and
- The rules will not solve the global problem of mercury deposition in Wisconsin lakes and will not result in a single lake being taken off of the fish consumption mercury advisory list.